APR 19 2004 PATENT & TRADEMARK OFFICE

**STATEMENT CLAIMING SMALL ENTITY STATUS**
**(37 CFR 1.27(a))-SMALL BUSINESS CONCERN**

**DOCKET NUMBER: 0243.1038-006**

Applicant: Francesco Pompei
Application No.: 10/684,818
Filed or Issued: October 14, 2003
Title: Temporal Artery Temperature Detector

I hereby state that I am
[ ] the owner of the small business concern identified below:
[ X ] an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF SMALL BUSINESS CONCERN Exergen Corporation
ADDRESS OF SMALL BUSINESS CONCERN 51 Water Street
Watertown, MA 02472

I hereby state that the above identified small business concern qualifies as a small business concern as defined in 13 CFR Part 121 for purposes of paying reduced fees to the United States Patent and Trademark Office. Questions related to size standards for a small business concern may be directed to: Small Business Administration, Size Standards Staff, 409 Third Street, SW, Washington, DC 20416 or you may call 202-205-6618.

I hereby state that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in.

[ ] the specification filed herewith with title as listed above.
[ X ] the application identified above.
[ ] the patent identified above.

If the rights held by the above identified small business concern are not exclusive, each person, concern or organization having rights in the invention must file separate statements as to their status as small entities. No rights to the invention are held by any person who would not qualify as a person under 37 CFR 1.27(a)(1), or by any concern which would not qualify as a small business concern under 37 CFR 1.27(a)(2), or a nonprofit organization under 37 CFR 1.27(a)(3).

Each additional person, concern or organization having any rights in the invention is listed below:
[ X ] no such person, concern, or organization exists.
[ ] each such person, concern, or organization is listed below.

Separate statements are required from each named person, concern, or organization having rights to the invention stating their status as small entities.

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.27(g)(2))

NAME OF PERSON SIGNING Francesco Pompei, Ph.D.
TITLE OF PERSON IF OTHER THAN OWNER President
ADDRESS OF PERSON SIGNING 51 Water Street, Watertown, MA 02472
SIGNATURE _____ DATE 4/9/04